

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAULYSSES ALEXANDER RIOS,
Petitioner,

v.

SCOTT FRAUENHEIM, Warden,
Respondent.

Case No. 15-01357 BLF (PR)

**ORDER DENYING MOTION FOR
STAY; GRANTING THIRD
EXTENSION OF TIME TO FILE
TRAVERSE**

(Docket No. 51)

Petitioner, a state prisoner proceeding *pro se*, filed a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his state conviction out of Santa Clara County.

Respondent filed an answer on June 15, 2020. Dkt. No. 44. After being granted a second extension of time, Petitioner's traverse was due by February 11, 2021. Dkt. No. 50. On February 8, 2021, Petitioner filed a motion for a motion for stay and abeyance under "*Rhines v. Webber*, 125 S. Ct. 1528 (2008)," stating that lack of access to the law library due to the pandemic makes it impossible for him to file a proper traverse. Dkt. No. 51.

The motion for an indefinite stay is DENIED. First of all, a stay under *Rhines* is appropriate when a petitioner has shown good cause to return to state courts to exhaust potentially meritorious claims that were unexhausted at the time a federal habeas action was filed. *Rhines v. Weber*, 544 U.S. 269, 277-78 (2005). This is not the situation that


1 Petitioner faces. Accordingly, a stay under *Rhines* is not applicable. Furthermore, the
2 Court recognizes that despite challenges presented by the pandemic, other actions filed by
3 prisoners in *pro se* have been steadily proceeding. Accordingly, the motion for an
4 indefinite stay until the pandemic passes is DENEID.

5 In the interest of justice, Petitioner shall be granted a third extension of time to file a
6 traverse. Petitioner shall file a traverse **no later than fifty-six (56) days from the date**
7 **this order is filed.** Petitioner may continue to file requests for additional time as needed,
8 but he must continue to make a good faith effort to prosecute this action in a diligent
9 manner.

10 This order terminates Docket No. 51.

11 **IT IS SO ORDERED**

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13 Dated: February 19, 2021

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15 BETH LABSON FREEMAN
16 United States District Judge
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